



Election expenditure and donations

Guidance notes

August 2020

Contents

Introduction	4
A. Spending in the 2020 General Election	5
B. Donations to Candidates and Parties in relation to the 2020 General Election	5
A. Spending in the 2020 General Election	6
The Regulated Period	6
Candidate Spending	7
What can a Candidate spend?	8
Political Party Spending	9
What can a Political Party spend?	9
What can be spent during and outside the regulated period?	10
Do Candidates or Parties need to treat time spent by volunteers as an election expense?	11
What is “money’s worth”	12
Splitting Spending	12
Return of expenditure by Candidates	14
Return of expenditure by Political Parties	15

B. Donations to Candidates and Parties in relation to the 2020 General Election	16
What is a donation?	16
What value is attributable to loans, goods and services?	18
Who can donations be accepted from?	18
What donations need to be disclosed?	20
Exceptions	20
Return of donations by Candidates	21
Return of donations by Political Parties	21

Introduction

This guidance provides information on the rules on spending and donations for Candidates and Political Parties in the run-up to the General Election of People's Deputies (the 'General Election') on 7th October, 2020.

Candidates and Political Parties should also familiarise themselves with the ['Information for prospective candidates'](#) guidance notes.

This guidance is not a substitute for reading and understanding the relevant Articles of the [Reform \(Guernsey\) Law, 1948](#), or [The Electoral Expenditure Ordinance, 2020](#). It is strongly advised that all Candidates and representatives of Political Parties familiarise themselves with this legislation. The relevant sections of the legislation are attached as Appendix 1 for ease of reference.

It is the responsibility of Candidates and Parties to report on spending fully and accurately in the 2020 General Election. Both Candidates and Parties should ensure that they understand the rules and that all spending is properly recorded and reported.

Important: this guidance is not legal advice. Every effort has been taken to ensure that this guidance is accurate, but no warranty is given, or representation made, in that regard. For the avoidance of any doubt, in any case of conflict between this guidance, and the provisions of the relevant legislation, the relevant legislation prevails and should be complied with. Failure to comply with the requirements of the legislation can be an offence. Accordingly, if after reading this guidance and the relevant legislation a Candidate or representative of a Political Party is in any doubt as to their legal obligations, they should seek independent legal advice.

A. Spending in the 2020 General Election

Candidates and Political Parties at the 2020 General Election must follow the rules on:

- How much they can spend
- What they must report after the Election

Failure to do so may be an offence. This guidance provides a lay summary of the main provisions of the law relating to the above. It is produced by the Registrar-General of Electors under section 1(9) of [The Electoral Expenditure Ordinance, 2020](#).

Article 44, 'Expenditure by Candidates and Political Parties' of the [Reform \(Guernsey\) Law, 1948 \("the Reform Law"\)](#) provides for the States, by Ordinance, to make provision in respect of:

- Permitted levels of expenditure by Candidates
- Permitted levels of expenditure by Political Parties
- Other related provisions

[The Electoral Expenditure Ordinance, 2020](#) was approved by the States on 1st July, 2020.

B. Donations to Candidates and Parties in relation to the 2020 General Election

Candidates and Political Parties at the 2020 General Election must follow the rules on:

- Who donations can be accepted from
- What they must report after the Election

A. Spending in the 2020 General Election

The Regulated Period

The period in the run-up to the election is called the ‘regulated period’. This runs from the first day on which a nomination of a Candidate may be delivered to the Presiding Officer, i.e. 1st September, 2020 and ends on the date of the General Election, i.e. the 7th October, 2020. This is the period when spending limits and rules apply.

There are different rules regarding **Candidate spending** and **Political Party spending** during the regulated period.

- **Candidate spending** includes any expenses incurred (in money or money’s worth), whether on items, services, property and facilities which are used for the purposes of promoting an individual’s candidacy at the General Election during the regulated period.
- **Political Party spending** includes any expenses incurred (in money or money’s worth), whether on items, services, property and facilities which are used for the promotion of the Party and its policies at the General Election during the regulated period.

The following pages provide further detail on both types of spending.

It is important for Candidates endorsed or supported by a Party, and for the Party itself, to consider whether an activity undertaken falls under ‘Candidate spending’ or ‘Political Party spending’. Where goods or services are intended to partly promote the Candidate and partly promote the Party, it will be necessary to split the costs between the Candidate and Party, and to reflect this split in the relevant spending limits and the returns of expenditure.

For example, the cost of a two-sided leaflet which promotes the Candidate on one side and the Party on the other should be split 50% to the Candidate and 50% to the Party. There is further information on this under the ‘**Splitting spending**’ section later in this document.

Candidate Spending

Candidate spending includes any expenses incurred (in money or money's worth) on items, services, property and facilities which are used **for the purposes of promoting an individual's candidacy** at the General Election during the regulated period.

This includes items, services, property and facilities which are:

- used during the regulated period, but bought before the period begins, and/or
- bought and used during the regulated period, and/or
- used during the regulated period but paid for afterwards.

It is important to note that this includes items, services, property and facilities given to a Candidate free of charge or at a non-commercial discount. This is covered in more detail in **'What is money's worth'** covered later in this guidance.

Only the Candidate is permitted to spend any sum of money (or money's worth) on promoting the election of that Candidate. Please note that this does not apply to the publication in a newspaper or in a broadcast by radio or television a statement presenting the views of a candidate, provided that such references are part of a report and not promotional material that has been purchased. Anyone who contravenes this provision shall be guilty of an offence and liable, on conviction, to a fine not exceeding £10,000.

When the States' Assembly & Constitution Committee presented its first policy letter to the States in April 2019 (['General Election 2020'](#)) it stated that guidance would be published which would set out what Candidate spending includes and what does not count. It stated that this guidance will be similar to the 'Guidance for Candidates and agents' produced by the Electoral Commission for the 2016 General Election entitled 'Part 3 of 6 - Spending and donations'.

This Electoral Commission guidance was updated for the [2019 UK Parliamentary General Election](#) (which took place after the policy letter was debated). Pages 8 to 11 provides a useful guide as to what does and does not count as Candidate spending and is attached as **Appendix 2**. It is important to note that this guidance is not exhaustive and is provided as a general guide for Candidates.

What can a Candidate spend?

Between 1st September and 7th October 2020 (the regulated period), a Candidate in the General Election may expend money or give value in money's worth in respect of the General Election up to £6,000. This is known as the Candidate's **expenditure allowance**.

A Candidate who is supported or endorsed by a Political Party may transfer up to £3,000 (i.e. 50%) of his or her expenditure allowance to that Political Party, to be available for that Party to spend on the promotion of the Party and its policies at the General Election during the regulated period. This can only be done by notifying the Registrar-General. Information on how to notify the Registrar-General will be included in the Candidate pack which will be provided on the submission of nominations.

**** Please note that if a Candidate transfers part of their allowance to their affiliated Political Party to spend on Party promotion, the Candidate's own expenditure allowance will reduce by the amount that has been transferred to the Political Party**.**

Any Candidate who contravenes any provision of Article 44 of the [Reform \(Guernsey\) Law, 1948](#) ('the Reform Law') and/or [The Electoral Expenditure Ordinance, 2020](#), will be guilty of an offence. The Candidate is also responsible for the actions of any person working for them (their 'servant or agent' in the Law). Any Candidate who is convicted of an offence will face a fine and the Royal Court may also order that they forfeit their seat, if elected.

If the Royal Court finds that the contravention was not in bad faith (for example, if there was an accidental miscalculation or some other reasonable cause), it can make an order relieving the Candidate from the consequences of the contravention. However, Candidates are encouraged not to rely on this provision. Candidates should carefully familiarise themselves with the Law and the Ordinance, and should maintain a clear financial record of all election-related expenditure.

Political Party Spending

Political Party spending includes any expenses incurred (in money or money's worth), whether on items, services, property and facilities which are used for **the promotion of the Party and its policies** at the General Election during the regulated period.

This includes items, services, property and facilities which are:

- used during the regulated period, but bought before the period begins, and/or
- bought and used during the regulated period, and/or
- used during the regulated period but paid for afterwards.

It is important to note that this includes items, services, property and facilities given to a Party free of charge or at a non-commercial discount. This is covered in more detail in **'What is money's worth'** covered later in this guidance.

The Electoral Commission guidance produced in 2019 entitled ['UK Parliamentary General Election 2019: Political Parties \(GB & NI\)'](#) provides Parties with useful guidance as to what activities count as spending and what does not count as spending. Pages 17 to 19 are attached as **Appendix 3**. It is important to note that this guidance is not exhaustive and is provided as a general guide for Political Parties.

What can a Political Party spend?

The amount a Political Party has available to spend at the General Election during the regulated period on promoting the Party and its policies is dependent on the amounts transferred to it by its Candidates, up to a total cap of £9,000. For example:

- Party A has 5 Candidates. Each Candidate transfers £1,000 of their own expenditure allowance to the Party. Party A's total allowance is therefore £5,000.
- Party B has 10 Candidates. Each Candidate transfers £1,000 of their own expenditure allowance to the Party. This exceeds the cap of £9,000. Party B's total allowance is capped at £9,000.

A Candidate can transfer up to £3,000 of their expenditure allowance to their Political Party by notifying the Registrar-General (see above).

The maximum total allowance that may be transferred to a Political Party by Candidates in the General Election to spend on the promotion of the Party and its policies at that election is £9,000.

It is important that a Political Party does **not**, during the regulated period, in a sum greater than the total allowance transferred to it by Candidates,

- (a) expend money or give value in money's worth on the promotion of the Party and its policies, or
- (b) use goods and services for the purpose of promoting the Party and its policies that were procured before the regulated period by the expenditure of money, or the giving of value in money's worth.

If a Political Party contravenes the above provisions, the leader and treasurer of that Party shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £10,000. It is a defence for a person charged with an offence to prove they have taken all reasonable precautions to avoid the commission of an offence.

What can be spent during and outside the regulated period?

Expenditure rules in previous elections have been interpreted historically to prohibit Candidates from spending money on election materials until they have submitted their nominations. In practice, experienced Candidates managed this by preparing their materials in advance and settling invoices during the regulated period.

When the States' Assembly & Constitution Committee presented its first policy letter to the States in April 2019, ['General Election 2020'](#) it stated that "the rules should be clarified to provide clearer guidance on what potential Candidates can spend before the nomination period opens".

In the absence of a definition of "Candidate" in the Reform Law, [The Electoral Expenditure Ordinance, 2020](#) or any other enactment, the term is being construed for these purposes in a way which is intended to be consistent with its dictionary definition^[1] and least restrictive of people's rights

and freedoms, and accordingly individuals are being treated as “Candidates” only when their nomination form is submitted to and accepted by the Bailiff.

[The Electoral Expenditure Ordinance, 2020](#) provides that expenditure on goods and services procured before the regulated period, but used during the regulated period, must not exceed the Candidate’s expenditure allowance.

A person may spend money on goods or services that are used before the regulated period to promote his or her prospective candidacy. He or she may also use goods or services during the regulated period that are procured before the regulated period, so long as such expenditure does not exceed his or her expenditure allowance.

The legislation also provides that during the regulated period a Party can only use goods and services for the purposes of promoting the Party and its policies that were obtained before the regulated period if the cost of these – in money or money’s worth - fall within the allowance transferred to it by Candidates.

Do Candidates or Parties need to treat time spent by volunteers as an election expense?

No. **Time** spent by a person providing services or otherwise working for a Candidate or Political Party on an unpaid and voluntary basis in respect of the General Election has no value in money or money’s worth. This is set out in section 1(8) of [The Electoral Expenditure Ordinance, 2020](#).

This means that friends and/or supporters can assist Candidates or a Party on a voluntary basis and the value does not need to be calculated or declared.

It is important to note that if an individual is providing their own services, that individual is not making a ‘donation’ if those services are provided:

- (a) as a volunteer
- (b) without charge, and
- (c) otherwise than in the course of the individual’s employment trade, profession or any other business.

[i] OED: person who applies for a job or is nominated for election

Therefore, time spent by a person providing services or otherwise on an unpaid and voluntary basis is different to, for example, assistance given by a website design company which provides free website design services to a Candidate or a Party where the work is undertaken by a company as a normal business activity (but free of charge). This kind of assistance will need to be valued as “money’s worth” and counted towards a Candidate’s or a Party’s expenditure allowance.

What is “money’s worth”

Election expenses include “**money and money’s worth**” – that is, goods, services and facilities which have a market value, but which may be provided to the Candidate or Party free of charge, or at a discounted rate.

If a Candidate or Party receives goods or services at a lower cost than their commercial or market value, they must record the full commercial or market value unless it is a discount which is available to all other similar customers such as discounts for bulk orders or seasonal reductions.

If the supplier is a commercial provider, you should use the rates that they charge other customers. If this information isn’t available, you should find out what similar providers charge for the same goods or services and use this as the commercial or market value. You should keep a record as to how you reached this valuation and retain copies of any quotes from the similar providers consulted with.

“Money’s worth” also refers to goods or services paid for by something other than money that has a financial value. For example, if goods supplied to a Candidate in the value of £150 are “paid for” by the Candidate giving the supplier an item worth £150, that would still need to be recorded as expenditure in the value of £150, even though no money has changed hands.

Splitting Spending

Given the absence of Political Parties in previous General Elections, guidance has not been provided historically regarding splitting spending between a Candidate and the Party, or for the Party before and during the regulated period.

Spending does not need to be counted against both the Candidate's and the Party's spending limit. It is likely an item of spending will generally fall into one of the following categories:

- spending on activity that promotes the Candidate counts towards the Candidate's expenditure allowance
- spending on activity that promotes the Party and not the Candidate counts towards the Party campaign expenditure limit.

In deciding whether an activity is promoting the Candidate or the Party it is important to consider what the principal purpose is.

Splitting spending between Candidates and Political Parties

Only the Candidate is permitted to spend any sum of money (or money's worth) on promoting the election of that Candidate. This is set out in Article 45A of the Reform Law. Therefore, any items, services, property and facilities used to promote a Candidate must come out of the Candidate expenditure allowance.

However, it is recognised that with the emergence of Political Parties, there may be promotion undertaken which promotes both the Candidate and the Party. Candidates and Parties may need to split the costs of items and services between the Party's campaign and the campaign of the Party Candidate. For example:

- A Party produces a leaflet that has information on both the Party and the Candidate. The Party has to determine how much of the cost of the leaflet should be attributed to the Party and the Candidate. The invoices for producing the material have to be included in both the Candidate's and the Party's returns.

It is important that Candidates and Political Parties should make an honest assessment, based on fact, of the proportion of the costs that can be fairly attributed to the campaign spending.

Splitting spending for Political Parties before and during the regulated period

If the Political Party spends money prior to the regulated period promoting itself and its policies e.g. holding a party political conference or meeting, this would not be treated as an election expense. Any activities taking

place between 1st September to 7th October would need to be declared as part of the 'Return of Expenditure'.

However, any goods or services obtained before the regulated period but used during the regulated period would need to be declared as part of the return of expenditure and must not exceed the Party's expenditure allowance.

Return of expenditure by Candidates

A candidate must record all of their spending. Every Candidate is required during the fourteen days following the 7th October 2020, i.e. by **21st October 2020** to submit to the Central Returning Officer a return which includes:

- the full particulars of all moneys or money's worth expended or given by the Candidate in respect of the Election, i.e.
 - what the spending was for e.g. leaflets, advertising etc.
 - the name and the address of the supplier
 - the amount or value
 - the date the money was spent
- receipts supporting such expenses; and
- a signed declaration in writing that the particulars shown in such return are to the best of the Candidate's knowledge and belief correct.

Please note that any grant by the States of Guernsey of a sum of money for the production and distribution of campaign materials in the General Election received by a Candidate shall be treated as expenditure of money by that Candidate in that sum in respect of the Election.

A 'Return of Expenditure' form will be included in the Candidate Pack available when nominations are submitted. A Candidate must still submit a return and declarations even if they haven't spent any money.

Please note that any Candidate who supplies particulars which he knows or ought to have known to be false, or otherwise contravenes the

requirements of Article 44 of the [Reform \(Guernsey\) Law, 1948](#) will be guilty of an offence. Any Candidate who is convicted of an offence could face a fine and the Royal Court may also order that they forfeit their seat.

Return of expenditure by Political Parties

Every Political Party which supported or endorsed Candidates at any election is required during the fourteen days following the 7th October 2020, i.e. by **21st October 2020** to submit to the Central Returning Officer a return which includes:

- full particulars of all moneys or money's worth expended or given by that party in respect of its promotion of the party or its policies at the Election, i.e.
 - what the spending was for e.g. leaflets, advertising etc.
 - the name and the address of the supplier
 - the amount or value
 - the date the money was spent
- receipts supporting such disbursements; and
- a declaration in writing signed by two officeholders of the Party that the particulars shown in such return are to the best of their knowledge and belief correct.

A 'Return of Expenditure' form will be included in the Candidate Pack available when nominations are submitted. A Political Party must still submit a return and declarations even if it hasn't spent any money.

Please note that any leader or treasurer of a Political Party who supplies particulars which he or she knows or ought to have known to be false, or otherwise contravenes the requirements of Article 44 of the [Reform \(Guernsey\) Law, 1948](#) will be guilty of an offence.

B. Donations to Candidates and Parties in relation to the 2020 General Election

For the 2020 General Election, rules have been introduced which cover donations. The Third Schedule to the [Reform \(Guernsey\) Law, 1948](#) makes provisions in respect of:

- (a) when gifts, loans and the supply of goods and services are donations
- (b) the value to be attributable to a donation, and
- (c) related matters

Candidates and Parties can only accept donations of money, items or services towards their election spending from certain sources and must report them to the Central Returning Officer after the election. For Candidates, this includes donations from their affiliated Political Party.

What is a donation?

A donation can be a gift or loan of money or a supply of goods and services. Please note that, in accordance with Article 44A(2) of the [Reform \(Guernsey\) Law, 1948](#) a Political Party, or a Candidate in the Election, **may not keep an anonymous donation, regardless of when it is made.**

(a) Gift of money

A gift of money is a donation if it is made:

- (a) at any time before the date of the election (i.e. 7th October, 2020) and the giver signifies, expressly or otherwise, that the money is intended for use to pay the recipient's election expenses, or

- (b) after 4:00 p.m. on Friday 4th September, 2020 and is either made anonymously or the giver does not signify the intended use of the money.

(b) Loan of money

A loan of money is a donation if:

- (a) it is made either at no cost to the recipient or on terms below the commercial rate for the loan, and
- (b) it is made –
 - (i) at any time before the date of the election (i.e. 7th October, 2020) and the lender signifies, expressly or otherwise, that the loan is intended for use to pay the recipient's election expenses, or
 - (ii) after 4:00 p.m. on Friday 4th September, 2020 and is either made anonymously or the lender does not signify the intended use of the loan.

(c) Supply of goods and services

A supply of goods (including by way of loan or rental) or a supply of services is a donation if it is made:

- (a) free of charge or at a discount to the open market value of or rate for the supply of the goods or services, and
- (b) it is made –
 - (i) at any time before the election, and the person making the supply signifies, expressly or otherwise, that the goods or services are intended for use to promote or procure the Candidate's election,
 - (ii) after 4:00 p.m. on Friday 4th September, 2020 and is either made anonymously or the person making the supply does not signify the intended use of the goods or services.

A supply of goods and services to a Political Party should be treated as being a donation to that Party, and accordingly Political Parties should record donations of supplies of goods and services on their 'Return of Donations' (as set out below).

What value is attributable to loans, goods and services?

The value of a donation:

- that is a **loan of money** is the amount equal to the difference between the cost to the recipient if the loan had been made on commercial terms, and the actual cost to the recipient.
- of **goods** is the amount equal to the difference between the open market value of the goods and the actual cost to the recipient.
- of the **use of goods** is the amount equal to the difference between the open market value for the use of the goods and the actual cost to the recipient.
- of the **supply of services** is the amount equal to the difference between the open market value for their supply and the actual cost to the recipient.

Who can donations be accepted from?

Donations can be accepted from:

- Individuals eligible to be inscribed on the Electoral Roll in Guernsey; and
- Any legal person, unincorporated association or another body based in Guernsey.

To be eligible to be inscribed on the Electoral Roll in Guernsey, you must be:

- 15 years of age or older;
- have been ordinarily resident in Guernsey for the last two years consecutively or for a total of five years at any time; and
- ordinarily resident in Guernsey

The Law states that a Political Party, or a Candidate in the Election, may **not** keep (regardless of when the donation is made):

- An anonymous donation (and for the avoidance of doubt, an anonymous donation is if the recipient is unable to ascertain the identity of the donor);
- A donation from an individual ineligible to be inscribed on the Electoral Roll in Guernsey; and
- A donation from a legal person, unincorporated association or other body based outside Guernsey.

If a Political Party, or a Candidate in the Election, receives a donation they may not keep, as set out above, they must, **within 10 days of its receipt**, either:

- Return it to the donor, or
- Send it to the Greffier for the Greffier to pay it to the States.

Further information on how to send the donation to the Greffier can be obtained by contacting the States' Greffier at the following:

Address: The States' Greffier, The Greffe, Royal Court House,
St. Peter Port, GY1 2PB
Telephone: 01481 725277
E-mail: States.Greffier@gov.gg

Please note that a Candidate, and the treasurer of a Political Party, which fails to comply with such a prohibition, is guilty of an offence and is liable on conviction to a fine.

Can a Party give donations to its Candidate(s)?

Yes.

It is important to note Article 45A, which provides that only a Candidate can spend money or give any value in money's worth with a view to promoting their candidacy. It is important that Candidates are conscious of the expenditure allowance as set out in the [Electoral Expenditure Ordinance, 2020](#).

What donations need to be disclosed?

Any donation received by a candidate or party in respect of the General Election which has a value equal to or greater than £50 needs to be disclosed in the return of donations.

Exceptions

There are certain exceptions listed in the third Schedule, 'Donations', as follows:

- If a Committee of the States disseminates information about or on behalf of Candidates in an election on the same terms to each Candidate, that Committee is not making a donation.
- If an individual is providing his own services, that individual is not making a donation if those services are provided
 - (a) as a volunteer,
 - (b) without charge, and
 - (c) otherwise than in the course of the individual's employment, trade, profession or any other business.
- The publication of any matter relating to the Election (excluding advertisements):
 - (a) in a newspaper or periodical circulating in Guernsey (including editions published on the internet),
 - (b) in a programme broadcast by a television or radio service provider (including those accessed from a website), or
 - (c) on a website as part of the news service of a television or radio service provider or news agency

is not a donation.

Return of donations by Candidates

A Candidate must record all the donations received. Every Candidate is required during the fourteen days following the 7th October 2020, i.e. by **21st October 2020** to submit to the Central Returning Officer a return which includes donations of a value equal to or greater than £50, detailing:

- The donor's name and address (if the donor is a company, their registered company number which can be found on the Guernsey Registry website www.greg.gg)
- The amount of any monetary donations
- The nature and value of any non-monetary donations
- The date on which the donation was accepted.

A 'Return of Donation' form will be included in the Candidate Pack available when nominations are submitted. A Candidate must still submit a return and declarations even if they haven't received any donations i.e. make a nil return.

This should be accompanied by a declaration in writing signed by the Candidate that the particulars shown in the return are to the best of their knowledge and belief correct.

Any Candidate who supplies particulars which they know or ought to have known to be false, or otherwise contravenes the requirements Article 45.(1) of the [Reform \(Guernsey\) Law, 1948](#) shall be guilty of an offence and, subject to the like proviso as is made to Article 44.(2), shall be liable on conviction to the same penalties as are in that paragraph.

Return of donations by Political Parties

A Political Party must record all of the donations received. Every Political Party is required during the fourteen days following the 7th October 2020, i.e. by **21st October 2020** to submit to the Central Returning Officer a return which includes donations of a value equal to or greater than £50, detailing:

- The donor's name and address (if the donor is a company, their registered company number which can be found on the Guernsey Registry website www.greg.gg)
- The amount of any monetary donations
- The nature and value of any non-monetary donations
- The date on which the donation was accepted.

A 'Return of Donation' form will be included in the Candidate Pack available when nominations are submitted and on request. A Political Party must still submit a return and declarations even if they haven't received any donations i.e. make a nil return.

This should be accompanied by a declaration in writing signed by two office-holders of the Party (as the case may be) that the particulars shown in the return are to the best of their knowledge and belief correct.

Any leader or treasurer of a Political Party who supplies particulars which they know or ought to have known to be false, or otherwise contravenes the requirements Article 45.(1) of the [Reform \(Guernsey\) Law, 1948](#) shall be guilty of an offence and, subject to the like proviso as is made to Article 44.(2), shall be liable on conviction to the same penalties as are in that paragraph.

The Reform (Guernsey) Law, 1948: Extract from Consolidated text

Expenditure by candidates and political parties.

44. (1) Save as hereinafter provided no candidate in any election shall in respect of such election expend any sum of money or give any value in money's worth otherwise than in accordance with such provisions as shall, from time to time, be prescribed by Ordinance
- (1A) An Ordinance under paragraph (1) may make provision in respect of expenditure by political parties, and by candidates in an election who are members of, or otherwise affiliated to, political parties and restrictions thereon; and such an Ordinance may set permitted levels of expenditure by candidates and by political parties, and make other related provision, including (but not limited to) allowing for candidates to transfer a defined percentage of their permitted expenditure as candidates to a political party, for that party to spend on promotion of the party and its policies.
- (1B) Without prejudice to the generality of paragraph (1A), an Ordinance under paragraph (1) may provide that where a political party contravenes a restriction therein on expenditure by political parties, one or more specified officers of that political party shall be guilty of an offence and shall be liable on conviction to a fine not exceeding level 5 on the uniform scale.
- (2) Any candidate who contravenes, whether by himself or by his servant or agent, any of the provisions of this Article or of any Ordinance made thereunder, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding level 5 on the uniform scale and in addition to such fine shall, if a successful candidate, and if the Royal Court so orders on the application of Her Majesty's Procureur, forfeit his seat:

PROVIDED ALWAYS that, whether on a prosecution under this paragraph or on an application under this paragraph for the forfeiture of a seat, if it is shown to the satisfaction of the Court that such contravention arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, the Court may make an order relieving the candidate from the consequences of such contravention.

Donations.

- 44A. (1) The Third Schedule ("Donations"), which makes provision for the purposes of this Law in respect of –
- (a) when gifts, loans and the supply of goods and services are donations,
- (b) the value to be attributed to a donation, and

(c) related matters,

shall have effect.

- (2) A political party, or a candidate in an election for the office of People's Deputy, may not keep an anonymous donation; and for the purposes of this Law, a donation is anonymous if the recipient is unable to ascertain the identity of the donor.
- (3) A political party, or a candidate in an election for the office of People's Deputy, may not keep a donation from –
 - (a) an individual, if that individual is not eligible to be inscribed on the Electoral Roll, or
 - (b) any legal person, unincorporated association or other body based outside Guernsey.
- (4) A political party which, or candidate for the office of People's Deputy who, receives a donation of a type described in paragraphs (2) or (3) must, within ten working days of its receipt –
 - (a) return it to the donor, or
 - (b) send it to the Greffier for the Greffier to pay it to the States.
- (5) The States' Assembly and Constitution Committee may issue guidance in respect of subsections (3) and (4).
- (6) A candidate who fails to comply with a prohibition or requirement in this Article, and the treasurer of a political party which fails to comply with such a prohibition or requirement, is guilty of an offence and is liable on conviction to a fine.

Returns of expenditure by, and donations received by, candidates and political parties.

45. (1) Every candidate at any election shall during the fourteen days next following the date of such election submit to the Central Returning Officer a return showing full particulars of all moneys or money's worth expended or given by him in respect of such election, and shall submit therewith vouchers supporting such disbursements and a declaration in writing signed by him that the particulars shown in such return are to the best of his knowledge and belief correct.
- (1A) Every political party which supported or endorsed candidates at any election shall during the fourteen days next following the date of such election submit to the Central Returning Officer a return, in such form as the Central

Returning Officer may direct, showing full particulars of all moneys or money's worth expended or given by that party in respect of its promotion of the party or its policies at such election, and shall submit therewith vouchers supporting such disbursements and a declaration in writing signed by two office-holders of the party that the particulars shown in such return are to the best of their knowledge and belief correct.

- (1B) Every candidate at any election, and every political party which supported or endorsed candidates at any election, shall during the fourteen days next following the date of such election submit to the Central Returning Officer a return, in such form as the Central Returning Officer may direct, showing the donations received by that candidate or party in respect of the election of a value equal to or greater than £50 or, if no such donations have been received, a nil return, and shall submit therewith a declaration in writing signed by the candidate, or two office-holders of the party (as the case may be), that the particulars shown in such return are to the best of their knowledge and belief correct.
- (1C) The States may by Ordinance amend the monetary figure in paragraph (1B).
- (2) Any candidate or any leader or treasurer of a political party, who supplies particulars which he knows or ought to have known to be false, or otherwise contravenes the requirements of paragraph (1) of this Article shall be guilty of an offence and, subject to the like proviso as is made to paragraph (2) of Article 44, shall be liable on conviction to the same penalties as are in that paragraph

Expenditure by persons other than candidates.

- 45A.** (1) Except as authorised under the provisions of Article 44 of this Law, a person shall not expend any sum of money or give any value in money's worth with a view to promoting or procuring the election of a candidate in any election:

Provided that nothing in this Article shall be taken to restrict the publication in a newspaper or in a broadcast by radio or television of a statement presenting the views of a candidate.

- (2) Any person who contravenes the provisions of this Article shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the uniform scale.

THIRD SCHEDULE

Article 44A

DONATIONS

Money.

1. (1) A gift of money is a donation if –
 - (a) it is made at any time before the date of the election and the giver signifies, expressly or otherwise, that the money is intended for use to pay the recipient's election expenses, or
 - (b) it is made after the time and date appointed by the Presiding Officer of the States for the closing of nominations under Article 32(1), and is either made anonymously or the giver does not signify the intended use of the money.
- (2) A loan of money is a donation if –
 - (a) it is made either at no cost to the recipient or on terms below the commercial rate for the loan, and
 - (b) it is made –
 - (i) at any time before the election and the lender signifies, expressly or otherwise, that the loan is intended for use to pay the recipient's election expenses, or
 - (ii) after the time and date appointed by the Presiding Officer of the States for the closing of nominations under Article 32(1), and is either made anonymously or the lender does not signify the intended use of the loan.
- (3) A gift or loan of money is made at the time when the money is given or lent to the recipient or, if earlier, the time when the giver or lender informs the recipient of his intention to make the gift or loan.

Goods and services.

2. (1) A supply of goods (including by way of loan or rental) or a supply of services is a donation if –
 - (a) it is made free of charge or at a discount to the open market value of or rate for the supply of the goods or services, and
 - (b) it is made –

- (i) at any time before the election, and the person making the supply signifies, expressly or otherwise, that the goods or services are intended for use to promote or procure the candidate's election,
 - (ii) after the time and date appointed by the Presiding Officer of the States for the closing of nominations under Article 32(1), and is either made anonymously or the person making the supply does not signify the intended use of the goods or services.
- (2) A supply of goods or services is made at the time when the goods or services are provided to the recipient.

Value attributable to loans, goods and services.

- 3.
 - (1) The value of a donation that is a loan of money is the amount equal to the difference between the cost to the recipient if the loan had been made on commercial terms, and the actual cost to the recipient.
 - (2) The value of a donation of goods is the amount equal to the difference between the open market value of the goods and the actual cost to the recipient.
 - (3) The value of a donation of the use of goods is the amount equal to the difference between the open market rate for the use of the goods and the actual cost to the recipient.
 - (4) The value of a donation of the supply of services is the amount equal to the difference between the open market value rate for their supply and the actual cost to the recipient.

Exceptions: States Committees, and services of an individual provided without charge.

- 4.
 - (1) If a Committee of the States disseminates information about or on behalf of candidates in an election on the same terms to each candidate, that Committee is not making a donation.
 - (2) If an individual is providing his own services, that individual is not making a donation if those services are provided
 - (a) as a volunteer,
 - (b) without charge, and
 - (c) otherwise than in the course of the individual's employment, trade, profession or any other business.

Exceptions: newspapers and broadcasts.

5. (1) Subject to subparagraph (2), the publication of any matter relating to an election –
 - (a) in a newspaper or periodical circulating in Guernsey,
 - (b) in a programme broadcast by a television or radio service provider, or
 - (c) On a website as part of the news service of a television or radio service provider or news agency, is not a donation.
- (2) Subparagraph (1) does not apply to an advertisement.
- (3) Where the publisher of a newspaper or periodical circulating in Guernsey also publishes an edition of the newspaper or periodical on the internet, the reference in subparagraph (1)(a) to a newspaper or periodical includes the edition of it published on the internet.
- (4) Where a television or radio service provider makes a programme accessible by streaming or downloading from a website, the reference subparagraph (1)(b) to the broadcast programme includes the programme as it may be accessed from a website.

The Electoral Expenditure Ordinance, 2020

THE STATES, in pursuance of their Resolutions of the 25th April, 2019^a, 12th December, 2019^b, 15th April, 2020^c and 1st July 2020^d, and in exercise of the powers conferred on them by Articles 44(1), (1A) and (1B) and 77B of the Reform (Guernsey) Law, 1948 as amended^e, and all other powers enabling them in that behalf, hereby order:-

Electoral Expenditure.

1. (1) In this section, "**the regulated period**" means the period starting on the first day on which a nomination of a candidate may be delivered to the Presiding Officer, and ending on the date of the General Election; and "**the General Election**" means the General Election of People's Deputies to be held on 7th October, 2020.

(2) A candidate in the General Election (a "**candidate**") may, during

^a Articles II and III of Billet d'État No. VII of 2019.

^b Article XIII of Billet d'État No. XXIV of 2019.

^c Proposition 2020/60.

^d Proposition 2020/117.

^e Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, p. 84; Vol. XIX, p. 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, p. 164; Vol. XXXII, p. 41; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, pp 150 and 295; Order in Council No. XIII of 2003; No. III of 2004; Nos. II and XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; No. II of 2012; Ordinance No. XXXIII of 2003, No. XXVI of 2008 and No. IX of 2016; No. II of 2020; and the Reform (Guernsey) (Amendment) Law, 2020.

the regulated period, expend money or give value in money's worth in respect of that election up to a maximum of £6,000 (the candidate's "**expenditure allowance**").

(3) A candidate who is supported or endorsed by a political party may, on notifying the Registrar-General in such manner as the Registrar-General may direct, transfer up to £3,000 of his or her expenditure allowance to that political party, to be available for that party to spend on the promotion of the party and its policies at the General Election during the regulated period.

(4) The effect on a candidate of a transfer by the candidate under subsection (3) is that the amount of the candidate's expenditure allowance is reduced by the amount transferred.

(5) The maximum total allowance that may be transferred to a political party by candidates in the General Election under this section to be available for that party to spend on the promotion of the party and its policies at that election is £9,000.

- (6) During the regulated period, a political party may not –
- (a) expend money or give value in money's worth on the promotion of the party and its policies, or
 - (b) use goods and services for the purpose of promoting the party and its policies that were procured before the regulated period by the expenditure of money, or the giving of value in money's worth,

in a sum greater than the total allowance transferred to it by candidates under this

section.

(7) Provided that the goods or services so procured are used only during (and not before) the regulated period, a candidate may expend money or give value in money's worth in respect of the General Election before the regulated period in a sum not exceeding his or her expenditure allowance.

(8) For the purposes of this section –

(a) time spent by a person providing services or otherwise working for a candidate or political party on an unpaid and voluntary basis in respect of the General Election has no value in money or money's worth, and

(b) any grant by the States of Guernsey of a sum of money for the production and distribution of campaign materials in the General Election received by a candidate shall be treated as expenditure of money by that candidate in that sum in respect of that election.

(9) The Registrar-General may issue guidance in respect of any of the matters set out in this section.

Electoral expenditure: offences.

2. (1) If a political party contravenes any provision of section 1(6), the leader and treasurer of that political party shall each be guilty of an offence, and shall be liable on conviction to a fine not exceeding level 5 on the uniform scale.

(2) It is a defence for a person charged with an offence under

subsection (1) to prove that he or she has taken all reasonable precautions to avoid the commission of an offence.

Citation.

3. This Ordinance may be cited as the Electoral Expenditure Ordinance, 2020.

**Electoral Commission
UK Parliamentary general election 2019
Great Britain**

**Extract from ' Guidance for candidates and agents
Part 3 of 6 Spending and donations**

8

What counts as candidate spending?

Candidate spending includes the costs of:

- advertising of any kind. For example, posters, newspaper adverts, websites or YouTube videos.
- unsolicited material sent to voters. For example, letters, leaflets or emails you send that aren't in response to specific queries.
- transport costs. For example, hire cars or public transport for you (although see 'personal expenses on p10) or your campaigners.
- public meetings.
- staff costs. For example, an agent's salary, or staff seconded to you by their employer. You do not need to include time spent on your campaign by volunteers.
- accommodation. For example, your campaign office.
- administrative costs. For example, telephone bills, stationery, photocopying and the use of databases.

Payments made for digital campaigning must be reported. The same rules apply to candidate spending on advertising whether you are using long standing techniques, such as printed mailshots, or newer ones such as online adverts.

For each activity, you must include all the associated costs. For example, if you are producing leaflets or advertising, you must include the design and distribution costs.

You do not need to include people's travel, food and accommodation costs while they campaign on your behalf, unless you reimburse them.

What doesn't count as candidate spending?

- payment of your deposit.
- anything (except adverts) appearing in a newspaper or on a licensed broadcast channel
- facilities you use because you are entitled to do so as a candidate, such as a public room for a meeting
- volunteer time including time spent by your staff that you do not pay them for (but any expenses you meet for them, such as transport or accommodation do count as spending)
- use of someone's main residence, provided free of charge
- use of someone's personal car or other means of transport acquired principally for that person's personal use and provided free of charge
- use of someone's computer or printer equipment acquired principally for that person's personal use and provided free of charge
- reasonable costs attributable to a disability you may have. This exemption only applies to the candidate and not any of your staff or volunteers. Please contact us for further advice if you are unsure whether this affects you.

You do not have to report spending on items that are not used (for example if leaflets are never distributed) and this does not count against the spending limit, but you should retain the unused material or evidence it was destroyed.

Public meetings

You do not need to include the costs of:

- events that are for party members only
- events held mainly for purposes other than your campaign, where your attendance is incidental – for example an annual social event at which you say a few words

You should make an honest assessment on the facts as to whether the meeting is genuinely being held for other purposes.

You may also be invited to attend hustings events run by local organisations or community groups. We have published separate [hustings guidance](#) that explains when the spending rules may apply to these events.

Volunteer time

Sometimes you may not be sure if someone working for your campaign is a volunteer or if you should count their time towards your spending limit. For example, they may offer similar services professionally to the ones they are performing for you.

They are likely to be a volunteer if:

- their employer is not paying them for the time they spend on your campaign or;
- they are taking time off from work, or
- where they are self-employed, you won't benefit from any professional insurances they hold

If they use specialist equipment or materials, it is likely this will be notional spending.

Personal expenses

Personal expenses include the reasonable travel and living expenses (such as hotel costs) of the candidate. Personal expenses do **not** count towards your spending limit, but you **must** report them on your spending return.

Personal expenses may include car hire for the candidate if the candidate does not already own a car, or if their car is not suitable for campaigning. For example, if you are standing in a rural constituency, it may be reasonable to hire a four-wheel-drive vehicle to access remote areas.

A candidate can pay up to £600 in total of personal expenses. The agent must pay any sums above this amount.

Candidates must provide a written statement of their personal expenses to the agent within 21 days of the result being declared.

Downloadable material

If you put material on a website for people to print off for their personal use, such as window posters or petition forms, the design and website costs count as candidate spending.

You do not need to count people's print costs against your spending limit, unless people are printing documents on your behalf.

If the material could be printed and distributed to voters – for instance a leaflet – you will need to make it clear how you expect people to use it.

If you authorise wider use of the material, the production costs may count as candidate spending whoever does the printing.

**The Electoral Commission
Extract from 'UK Parliamentary General Election 2019
Political Parties (GB & NI)'**

What activities count as spending?

Activities included in campaign spending are:

- party advertising of any kind. For example, street banners, websites or YouTube videos
- unsolicited material sent to voters about the party. For example, letters or leaflets you send that are not in response to specific queries
- the manifesto and other documents setting out your party's policies
- market research or other methods of finding out which party people intend to vote for (where the research involves identified candidates however, it may be candidate spending)
- party press conferences or other dealings with the media
- party rallies and events, including the cost of people's attendance, and any goods, services or facilities provided
- transport in connection with promoting or publicising your party

Which costs are included?

You must include all the costs associated with each activity. For example, if you are producing leaflets or advertising, you must include the design and distribution costs.

You must also include overheads or administrative costs which are associated with each activity. For example, this could include increased telephone bills for your office.

You must make an honest assessment on the facts of the amount you need to record.

Downloadable material

If you put material on a website for people to print off for their personal use, such as window posters or petition forms, the design and website costs count as campaign spending. You do

 **Important**

All costs should include VAT even if you can recover VAT payments.

18

not need to count people's print costs against your spending limit, as the costs will be very low.

If the material could be printed and distributed to voters – for instance a leaflet – you will need to make it clear how you expect people to use it. If you authorise wider use of the material, the production costs may count as campaign spending whoever does the printing.

Party election broadcasts

If you are entitled to party election broadcasts, you must include the production costs as campaign spending. You do not need to include the value of the airtime.

What doesn't count as spending?

Activities **not** included in campaign spending are:

- permanent, fixed term or temporary staff costs where the staff member has a direct employment contract with the party
- volunteer time
- office running costs, except costs that are higher than usual because of campaigning, such as telephone bills
- people's travel, food and accommodation costs while they campaign, unless you reimburse them
- expenses met out of public funds. For example, security costs for VIP visits
- material sent only to your members
- party conferences
- local newsletters about elected representatives or prospective candidates
- anything which a candidate properly declares on their spending return

Volunteer time

Sometimes you may not be sure if someone is a volunteer or if their time should be treated as notional spending. For example, they may offer similar services professionally to the ones they are performing for you.

They will be a volunteer if:

- their employer is not paying them for the time they spend on your campaign, or
- they are using their annual leave, or
- where they are self-employed, you won't benefit from any professional insurances they hold

If they use specialist equipment or materials, you should consider whether their use is notional spending, using the principles in the next section.